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STATUTES—INTERPRETATION—STATUTE ALLOWING JURY TO ASSESS PUNISHMENT.—A statute authorized the jury in bringing in their verdict to inflict the death penalty in a trial for rape, although the court on its own initiative could not pronounce so heavy a sentence. The defendant pleaded guilty to secure the lighter penalty but was forced by the court to stand trial. *Held*, that the ruling was correct for otherwise a jury trial would be denied the defendant. *United States v. Green*, 41 Wash. L. Rep. 216 (Dist. Col.).

For a comment upon this case see this issue of the REVIEW, at p. 169.

SUNDAY LAWS—VALIDITY OF CONTRACT EXECUTED ON SUNDAY—SUBSEQUENT PROMISE TO PAY.—The defendant hired an automobile from the plaintiff on a Sunday for the purpose, as the court puts it, of "joy riding." This was in violation of the Sunday law. On a subsequent secular day the defendant promised to pay the plaintiff for the ride. *Held*, that the plaintiff cannot recover. *Jones v. Belle Isle*, 79 S. E. 357 (Ga.).

The asserted policy of the law against contracts made on Sunday forbids the enforcement of such agreements by the courts. *Riddle v. Keller*, 61 N. J. Eq. 513, 48 Atl. 818; *Day v. McAllister*, 15 Gray (Mass.) 433. The illegality of Sunday contracts, however, is not so serious that the parties lose all legal remedies. *Adams v. Gay*, 19 Vt. 358. If the agreement is wholly executory, the parties may disregard it completely and on a week day adopt its terms in a new contract. *Miles v. Janvrin*, 200 Mass. 514, 86 N. E. 785. Furthermore, if property has been transferred on Sunday without consideration, to prevent unjust enrichment the law gives the vendor the right to repudiate the whole transaction and obtain restitution of his property. *Tucker v. Mowrey*, 12 Mich. 378; *Ladd v. Rogers*, 11 Allen (Mass.) 209. *Contra*, *Chestnut v. Harbaugh*, 78 Pa. 473. If on a secular day the contract is adopted, then, since the vendor thereby surrenders his right to restitution, there is sufficient consideration to support the new promise by the transferee. *Williams v. Paul*, 6 Bing. 653, 4 M. & P. 532; *Sayles v. Wellman*, 10 R. I. 465; *Brewster v. Banta*, 66 N. J. L. 367, 49 Atl. 718. But where restitution is impossible by reason of the nature of the performance rendered, as in the principal case, repudiation accomplishes nothing. The policy of the law, moreover, forbids quasi-contractual liability, since it tends to enforce the unlawful agreement. Therefore the new promise in such a case lacks consideration. As the policy of the law also prevents its operation as a ratification of the original transaction, the principal case seems correct. *Pope v. Linn*, 50 Me. 83. Many authorities, it is true, appear to sanction ratification, but it is submitted that in reality their doctrine conforms to the analysis indicated above.

TORTS—NATURE OF TORT LIABILITY IN GENERAL—LIABILITY WITHOUT NEGLIGENCE—BLASTING.—The defendant in doing railroad construction work exploded a blast, the vibrations from which destroyed the plaintiff's well. The defendant had not been negligent. *Held*, that the plaintiff may recover. *Patrick v. Smith*, 134 Pac. 1076 (Cal.).

This case is opposed to American authority which holds that, in the absence of negligence, the plaintiff cannot recover when damage is caused by the vibrations from blasting. *Derrick v. Kelley*, 136 N. Y. App. Div. 433, 120 N. Y. Supp. 996; *Booth v. Rome, Watertown & O. T. R. Co.*, 140 N. Y. 267, 35 N. E. 592. When, however, the damage is due to debris thrown on the plaintiff's land, the weight of authority is that liability is absolute. *Hay v. Cohoes Co.*, 2 N. Y. 159; *Langhorne v. Turman*, 141 Ky. 809, 133 S. W. 1008. This latter class of cases is explained by the fact that there is a technical trespass. There seems, however, little distinction between setting a force in motion, knowing it will project rocks through the air, and knowing it will project vibrations through the earth and air. *Hickey v. McCabe*, 30 R. I. 346, 75 Atl. 404; *Colton v.*